

REMARKS

Applicant has filed a Petition for revival of his unintentionally abandoned Application under CFR 1.137(b). This Amendment is a response to the Examiner's Office Action dated September 27, 2002 whose content has been carefully considered.

In this Amendment, Applicant has cancelled Claims 1-11. New Claims 12-19 have been added. Claims 12 and 19 are independent claims and Claims 13-18 depend on independent Claim 12. Claims 12-19 remain pending in the application. In addition, Applicant has amended the Specification without the addition of any new matter whatsoever to conform to the original Specification and the original claims and the new claims that have been added. For at least the following reasons, it is submitted that this application is in condition for allowance.

Initially, if there are any irregularities in the format of this Amendment, it would be greatly appreciated if Applicant's Counsel would be so advised.

a. Rejection of Claims 8 and 11, under 35 U.S.C. § 112, Paragraph 2

The Examiner rejected Claims 8 and 11, under USC 35 § 112, Paragraph 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In response, Applicant has cancelled Claims 8 and 11 thereby rendering the Examiner's rejection moot.

b. Rejection of Claims 1-4 and 9-11, under 35 U.S.C. § 102(b)

The Examiner rejected Claims 1,3 and 9-11 under 35 U.S.C. § 102(b), as containing subject matter which was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of this application for patent in the United

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States. The Examiner states Claims 1, 3 and 9-11 are rejected as being allegedly anticipated by Knauff, US Patent No. 3,241,202. The Examiner states Claims 1-4 and 9-11 are rejected as being allegedly anticipated by Dinkins, US Patent No. 5,245,715. The Examiner states Claims 9-11 are rejected as being allegedly anticipated by Ippolito, US Patent No. 5,101,525 or Kalavity, US Patent No. 6,253,478 or Cho, US Patent 5,687,946 or Still, US Patent 4,524,533. Knauff '202 discloses a blanket peg comprising a stake having a horizontal hole, a ring coupled to the stake by passing the ring through the horizontal hole and a rounded top located at one end of the stake, with the ring further coupled to a clamp for holding a portion of the blanket. Dinkins '715 discloses an anchor apparatus similar to Knauff '202 without a rounded top, with the ring replaced with a tether line and the stake having a plurality of conical rings on an outer portion of the stake that are orthogonally oriented relative to the long axis of the stake. Ippolito '525 discloses a stake for anchoring down a blanket having an eyelet in which the stake is driven through the eyelet of the blanket. Kalavity '478 discloses a holder in the shape of a stake for receiving a sign. Cho '946 discloses an umbrella coupler comprising an umbrella coupler assembly having a lower portion coupled to a support base. Still '533 discloses a realtor sign system generally having similar features to Cho '946.

In response, Applicant notes that none of the references cited by the Examiner disclose a slot located in at least one longitudinal rib of a plurality of longitudinal ribs of the stake or that the stake is coupled to at least one flexible and resilient member which is further coupled to a resilient clip and the resilient clip is coupled to a portion of a blanket. Applicant has cancelled Claims 1-4 and 9-11 without prejudice or disclaimer thereby rendering moot the Examiner's rejection of Claims 1-4 and 9-11. Applicant has added new Claims 12-19 to more clearly define Applicant's unique and patentably distinct features. Applicant has disclosed and now claims the unique features of at

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least one longitudinal rib of a plurality of longitudinal ribs of the stake having a slot and that at least one flexible and resilient member is coupled to the slot and the at least one flexible and resilient member is also coupled to a resilient clip which is further coupled to a portion of the blanket so that the blanket is retained on a supporting surface having variations in depth, with the positioning of the at least one flexible and resilient member being adjustable within the slot comprising about one third of the length of the stake thereby insuring that the blanket remains taut over the supporting surface (see discussion of new Claims 12-19 below).

b. Rejection of Claims 1-2 and 4-8 under 35 U.S.C. § 103(a)

Claims 1 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Knauff, US Patent No. 3,241,202 in view of Dinkins, US Patent No. 5,245,715. The Examiner states Knauff '202 shows the claimed invention except for flexible connecting means, whilst Dinkins allegedly shows flexible connecting means at 19, and that furthermore it would have allegedly been an obvious mechanical expedient to use an elastic line. Claims 5, 6 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dinkins, US Patent No. 5,245,715. Once again the Examiner stated it would have allegedly been an obvious mechanical expedient to use an elastic line. Claims 2 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Knauff, US Patent No. 3,241,202 in view of Ippolito, US Patent No. 5,101,525. The Examiner states Knauff '202 shows the claimed invention except for a screw-threaded connection for the removable head member. The Examiner alleges Ippolito '525 shows a screw threaded head attachment so that at the time of the Knauff '202 invention according to the Examiner it would have been obvious to comprise a threaded connection with the removable attachment of his head, and that furthermore the screw threaded connection is an obvious

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mechanical expedient. The Examiner rejected Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Griffiths, US Patent No. 5,832,672 in view of Deroche, US Patent No. 5,327,922. The Examiner states Griffiths '672 shows the claimed invention except for the removable head and flexible connecting means. Deroche '922 allegedly shows a removable head and a flexible connecting means, so that allegedly it would have been obvious to modify Griffiths '672 to conform to the Deroche '922 disclosure. Similarly, the Examiner rejected Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Griffiths, US Patent No. 5,832,672 in view of Knauff, US Patent No. 3,241,202 and Dinkins, US Patent No. 5,245,715. Knauff '202 allegedly shows a removable head and Dinkins '715 allegedly has a flexible connecting means, so that according to the Examiner it would have been obvious to comprise a removable head and a flexible connecting means to enable replacement of the head portion of the stake and to a tensioned attachment to the clamp.

In response, with respect to Claims 1-2 and 4-8, Applicant notes that the flexible connecting means is never taught, described or suggested in the prior art references cited by the Examiner as being elastic or resilient. Applicant respectfully traverses the Examiner's allegation of obviousness since this unique feature was discussed in Applicant's Background of the Invention (see Applicant's Specification, page 1) as being a defect in the prior art, which the Examiner's cited prior art people skilled in the art did not address. Additionally, Applicant cited art in his Background of the Invention (see Applicant's Specification, page 1) which showed other people skilled in the art did not address the flexible connecting means (at least one flexible and resilient member couple to a resilient clip) claimed by Applicant. Applicant has addressed this issue of the flexible and resilient connecting means, and has provided a non-obvious advantage for this specific area of art.

Applicant has cancelled Claims 1-2 and 4-8 without prejudice or disclaimer to expedite the prosecution of this application, thereby rendering

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moot the Examiner's rejection of Claims 1-2 and 4-8 and as noted above has added new Claims 12-19 to more clearly define Applicant's unique, non-obvious and patentably distinct features (see discussion below).

c. New Claims 12-19

New Claims 12 and 19 have been added as independent claims and new Claims 13-18 have been added as dependent claims depending on new Claim 12. Full support for Claims 12-19 is found in Applicant's Specification and Drawings.

New Claim 12 cites a covering retaining device having the combined unique and non-obvious features of: "at least one stake member having a plurality of longitudinal ribs, at least one of the plurality of longitudinal ribs having a slot located in an upper portion of the at least one of the plurality of longitudinal ribs, the slot adapted to receive at least one flexible and resilient member, the length of the slot adapted for overcoming depth variations of a supporting surface whereon the covering is loosely pre-positioned; the at least one stake member tapering at one end of the at least one stake member for driving into the supporting surface and an opposite end of the at least one stake member having a recess; a removable personalized head member having a protrusion, the recess of the at least one stake member adapted to receive the protrusion of the removable personalized head member; and the at least one flexible and resilient member coupled to a resilient clip thereby retaining the covering on the supporting surface having variations in depth when a portion of the covering is coupled to the resilient clip".

New Claim 13 cites the unique and non-obvious features of the retaining device: "the removable personalized head member is at least one of a football, a baseball, a representation of a head of a person, a representation of a logo, a representation of a character, a representation of an animal figure, a

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representation of sports paraphernalia, a rectangular prism adapted to receive advertising and a display of a manufactured product".

New Claim 14 cites the unique and non-obvious features of the retaining device: "the slot of the at least one of the plurality of longitudinal ribs comprises about one third of the length of the at least one stake member thereby overcoming depth variations of a supporting surface whereon the covering is loosely pre-positioned".

New Claim 15 cites the unique and non-obvious features of the retaining device: "the covering is at least one of a blanket and a towel".

New Claim 16 cites the unique and non-obvious features of the retaining device: "the at least one flexible and resilient member is at least one of an elastic cord and a rope thereby permitting the covering to return to an original position if the covering is disturbed".

New Claim 17 cites the unique and non-obvious features of the retaining device: "the resilient clip comprises an upper clip arm and a lower clip arm and a resilient connecting member, the upper clip arm coupled to the lower clip arm by the resilient connecting member, and a portion of each one of the upper clip arm and the lower clip arm having ribbing for enhanced gripping of a portion of the covering.

New Claim 18 cites the unique and non-obvious features of the retaining device: "the plurality of longitudinal ribs of said stake member comprises four longitudinal ribs".

New Claim 19 is an independent claim which cites a method of retaining a covering having the combined unique and non-obvious features of: "providing at least one stake member having a plurality of longitudinal ribs, at least one of the plurality of longitudinal ribs having a slot located in an upper portion of the at least one of the plurality of longitudinal ribs, the slot adapted to receive at least one flexible and resilient member, the length of the slot adapted for overcoming depth variations of a supporting surface whereon the

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covering is loosely pre-positioned; providing the slot of the at least one of the plurality of longitudinal ribs comprises about one third of the length of the at least one stake member; driving one end of the at least one stake member into the supporting surface and providing an opposite end of the at least one stake member having a recess; providing a removable personalized head member having a protrusion, the recess of the at least one stake member adapted to receive the protrusion of the removable personalized head member; coupling the protrusion of the removable head member to the recess; coupling the at least one flexible and resilient member to a resilient clip thereby retaining the covering on the supporting surface having variations in depth when a portion of the covering is coupled to the resilient clip; coupling the resilient clip to a portion of the covering; and positioning the at least one flexible and resilient member coupled to the slot of the at least one of the plurality of longitudinal ribs thereby retaining the covering on the supporting surface having variations in depth and insuring that the covering remains taut over the supporting surface.

Since Claims 13-18 depend on Claim 12, Claims 13-18 have all the limitations of patentably distinct and non-obvious independent Claim 12 which, is neither shown, described nor suggested in any of the references that have been cited. It is therefore respectfully submitted that Claim 12-18 patentably distinguish over any other relevant art.

Since Applicant previously had three independent claims and eight dependent claims, no fees are due for the addition of independent Claims 12 and 19 and dependent Claims 13-18.

Applicant has now made an earnest attempt to place this application in condition for allowance. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of Claims 12-19 and that the application be passed to issue.

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Should the Examiner feel that a telephone conference would help to expedite the prosecution of the application, the Examiner is hereby invited to contact the undersigned counsel to arrange for such an interview.

Please charge our Deposit Account No. 23-0830 an amount of \$750 for the accompanying Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b). If there are any further fees incurred by this Amendment Letter, please deduct them from our Deposit Account No. 23-0830.

Respectfully submitted,

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